IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR
&
THE HONOURABLE MR. JUSTICE HARUN-UL-RASHID

SATURDAY, THE 18TH AUGUST 2007 / 27TH SRAVANA 1929

WP(C).No. 39980 of 2003(S)

PETITIONER:

N.G.SANTHOSH, AGED 38 YEARS,
S/O. N.G.NAIR, PROGRESSMAN (DIPLOMA HOLDER)(AD-HOC)
OFFICE OF THE DEPUTY CHIEF ELECTRICAL ENGINEER,
RAILWAY ELECTRIFICATION, ERNAKULAM JUNCTION,
ERNAKULAM, RESIDING AT PAZHERI HOUSE, CHEVAYOOR,
POST-PULIKKAL, MALAPPURAM DISTRICT

BY ADV. SRI.T.C.GOVINDA SWAMY
SRI.K.M.ANTHRU
SRI.MANNATTIL KUMAR
SMT.D.HEERA

RESPONDENTS:
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1. **UNION OF INDIA, REPRESENTED BY THE SECRETARY TO THE GOVERNMENT OF INDIA, MINISTRY OF RAILWAYS, RAIL BHAVAN, NEW DELHI.**

2. **THE GENERAL MANAGER, CENTRAL ORGANIZATION OF RAILWAY ELECTRIFICATION, ALLAHABAD.**

3. **THE CHIEF PROJECT MANAGER, RAILWAY ELECTRIFICATION, EGMORE, CHENNAI-8.**

4. **THE DEPUTY ELECTRIC CHIEF ENGINEER, RAILWAY ELECTRIFICATION (TRICHUR) NOW AT ERNAKULAM JUNCTION, ERNAKULAM.**

5. **THE CENTRAL ADMINISTRATIVE TRIBUNAL, ERNAKULAM BENCH.**

BY ADV. SRI.K.V.SADANANDA PRABHU,SR.SC.RAILWAYS
SMT.M.R.SREELETHA, SC, RAILWAYS

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 18/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC.NO.39980/2003 S

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: **COPY OF THE ORDER OF HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL, ERNAKULAM BENCH IN O.A.NO.617/2000 DTD. 16/08/2002.**

EXT.P2: **COPY OF THE O.A.NO.617/2000 DTD. 5TH MAY 2000.**

EXT.P3: **COPY OF THE REPLY STATEMENT FILED BY THE RESPONDENTS DTD. 21/12/2000.**

/TRUE COPY/

P.S.TO JUDGE

KSS

K. BALAKRISHNAN NAIR & HARUN-UL-RASHID, JJ.

W.P.(C) No. 39980 of 2003

Dated, this the 18th day of August, 2007

JUDGMENT

Balakrishnan Nair, J.

The petitioner was engaged in the Electrification Wing of the Railways as Casual Labourer Progressman on 19.10.1988. He was having Diploma in Electrical Engineering. He was granted temporary status on 14.10.1989. The scale of pay granted to him was Rs.950-1500. Later he was put in the grade of Rs.1200-1800. The petitioner on attaining temporary status is entitled to get the scale of pay of Regular Progressman which was Rs.1320-2040, it is submitted. Similarly placed persons approached the Hyderabad Bench of the Central Administrative Tribunal by filing O.A.No.290/1994. The said O.A. was allowed. The applicants were granted the benefit of higher scale of pay of Rs.1320-2040. Following the said judgment, few other O.As. were also allowed. In those cases also the Railways suffered the judgments and implemented them. In the light of the judgment in O.A.No.290/1994, the petitioner filed representations claiming the scale of pay of Rs.1320-2040. The said representation was rejected by order dated 5.6.1998. The petitioner challenged that order by filing Ext.P2 O.A. before the Central Administrative Tribunal, Ernakulam Bench. The said order was produced as Annexure A5 along with Ext.P2. The respondents resisted the prayers

in the O.A. by filing Ext.P3 reply statement. The Tribunal, after hearing both sides, dismissed the application by Ext.P1 order. The Tribunal mainly rested its decision on a letter of the Railway Board dated 20.12.1985 which is produced as Annexure R2 of Ext.P3. The said order deals with skilled artisans. The petitioner submits that the same has no application to his case. He is a Progressman who attained temporary status and therefore entitled to the regular scale of pay applicable to Regular Progressman. In support of the submission the learned counsel for the petitioner relied on the judgment of the Chandigarh Bench of the Central Administrative Tribunal in O.A.No.868/1998 dated 8.5.2002. The said judgment would show that the scale of pay applicable to Progressmen as per the Railway Board Circular dated 16.10.1989 based on the Fourth Central Pay Commission was Rs.1320-2040. The applicants therein were similarly placed like the petitioner. The Tribunal ordered that the applicants therein are entitled to get the above scale of pay of Progressmen with effect from the date they completed 180 days of service in that post. The said order was implemented by the Railways and the benefits were granted to the applicants therein, it is pointed out.

2. The respondents have filed a counter affidavit in this writ petition. They reiterated the contentions taken by them before the Central Administrative Tribunal. According to them Ext.R2 produced along with the reply statement before the Central Administrative Tribunal will govern

the case of the petitioner. They also pointed out that an employee having a lien in Group D, based on ad hoc promotion is not entitled to get the scale of pay of Rs.1320-2040 (pre-revised) which is now revised as Rs.4500-7000.

3. From the materials produced in this writ petition it can be safely concluded that the scale of pay of Regular Progressman is Rs.1320-2040. The only dispute is whether the petitioner who got temporary status in the post of Progressman is entitled to draw his salary in that scale of pay. We find that in many cases the Central Administrative Tribunal has made declarations regarding the entitlement of that scale of pay in relation to similarly placed employees and the Railways without any demur implemented those orders also. If that be so, we find no reason why the petitioner herein is also not entitled to get the said scale of pay. This view finds support from the decision of the Apex Court in State of Karnataka v. Parameshwarappa - 2005 SCC (Labour and Service) 120 wherein the Apex Court held as follows:

> "However,there is no reasonable justification to confine the relief to only such of the teachers who approached the court and having regard to the fact that relief related to the revision of scales of pay, every one of that class of teachers who approached would be entitled to the benefit, notwithstanding that they have not approached the court."

4. In view of the above position, the writ petition is allowed. Ext.P1 is quashed. The O.A. is allowed declaring that the petitioner is entitled to get the scale of pay of Rs.1320-2040 notionally with effect from the date he was conferred temporary status. He will get arrears of pay with effect from the date of Annexure A4 to Ext.P2 i.e. 4.11.1997.

This writ petition is disposed of as above. The benefits due to the petitioner shall be worked out and paid to him within three months from the date of receipt of a copy of this judgment.

K. BALAKRISHNAN NAIR
JUDGE

HARUN-UL-RASHID,
JUDGE.

mt/